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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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CONTENTS

House Week in Review.....2

Bills Introduced.....4

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House Week in Review

After having spent much of the preceding week debating a bill to phase out residential school taxes (H. 4633), the House returned on Tuesday to resume work on a number of bills still left to be taken up. On that day, the House gave third reading to H. 4681, a bill to establish a school-to-work transition system for students. The House also took up Senate amendments to H. 4332, a bill to reapportion the state's congressional districts. The Senate has amended the House bill to switch a few precincts in Charleston County between the 1st and 6th Congressional Districts. After spirited debate, the House voted 60-48 to concur with the Senate amendments. This bill was ratified on Wednesday and now goes to the governor for his signature. Also that day, the House approved H. 4414, the Schoolhouse Safety Alliance Act of 1994, designed to address the problem of school violence in South Carolina.

On Wednesday, the House gave third reading to H. 4820, the General Appropriation Bill for Fiscal Year 1994-1995. Several amendments were adopted to H. 4820 on third reading, including one to provide an additional \$4,000 homestead exemption on owner-occupied residential property from school operating taxes. The exemption is an initial amount which may be increased by the General Assembly for property tax years beginning after 1994; however, future increases in this exemption are contingent on full funding of the Education Finance Act and on an appropriation by the General Assembly for the fiscal year reimbursing school districts for the school tax revenue loss resulting from the exemption for that fiscal year. With the House having given third reading on Wednesday, the general appropriation bill was introduced in the Senate last Thursday and referred to that body's Finance Committee for further consideration. Also on Wednesday, the House gave second reading to S. 195, which creates the crime of criminal domestic violence of a high and aggravated nature, and to H. 4197, which prohibits a person defeated as a candidate for nomination to an office in a party primary from receiving votes for that office in the general election.

Also on Wednesday, the General Assembly convened in joint session to hear two addresses. The first address was from Ms. Dodie Burns Magill, South Carolina's Teacher of the Year. Ms. Magill spoke about the many roles teachers play today and recommended improvements in South Carolina's kindergarten system to better prepare students for learning. Following her address, the national commander of the American Legion, the Honorable Bruce

Legislative Update, March 29, 1994

Thiesen, spoke before the General Assembly. Mr. Thiesen spoke briefly about the Legion's 75th anniversary and then proceeded to discuss what he saw as the declining morals and values of America. He announced his support for a federal constitutional amendment to prohibit flag desecration as a step in reversing America's declining values.

On Thursday the House gave second reading to H. 4566, a bill to open South Carolina to nationwide interstate banking; H. 4775, a bill to allow health care facilities to enter into agreements to share facilities and services, and H. 3977, a bill to establish an insurance fraud bureau within the Attorney General's Office. Also on Thursday, the House approved S. 968, sometimes referred to as the "John Doe" bill, requiring an unidentified body to be preserved for at least 30 days at the Medical University of South Carolina or another suitable facility.

Bills Introduced

The following bills were introduced in the House last week. Not all bills introduced in the House are listed here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Hunting Violations (S. 992, Sen. Land). This bill revises the state's statutes pertaining to the taking of raccoons, opossums and foxes, as follows:

---Lengthens the season for hunting raccoon and opossum with weapons in Game Zone 9 (Clarendon, Georgetown and Williamsburg Counties) by changing the starting date of the season from September 15 to September 1 and lengthens the season for hunting these animals without the use of weapons and with use of dogs, by changing the final date of this season from March 15 to March 31.

---Expands the prohibition against hunting raccoons and opossums with weapons during seasons when only hunting without weapons is permitted, so as to include the hunting of foxes in this prohibition. Also makes it unlawful to possess raccoon, opossum or fox during the season for hunting them without weapons (except those taken legally during the regular trapping season), with violation of this prohibition punishable by a fine of between \$100-\$500 or imprisonment not exceeding 30 days.

---Provides that illegal possession, taking or attempting to take raccoons during the season for hunting without weapons accrues 14 points against a person on the Department of Natural Resources Point System (used to suspend hunting and fishing privileges of persons violating the state's hunting and fishing laws).

---Requires a permit from the Department for any person seeking to hold furbearers or their belts (as currently opposed to holding fur) more than 30 days after the end of the regular season for taking furbearers.

Appointment of Additional Commissioners to Governing Bodies of Soil and Water Conservation Districts (S. 1144, Sen. Land). Under current law, the governing body of a soil and water conservation district consists of 3 to 5

Legislative Update, March 29, 1994

commissioners, with 3 commissioners elected by popular vote and an additional 2 commissioners appointed by the State Land Resources Commission (known as the Department of Natural Resources after June of 1994) if the commission determines that the operation of the proposed district within its defined boundaries is administratively practicable and feasible. This bill expands the maximum size of a district's governing body to 7 members by allowing the Department, upon request of the district's governing body, to appoint for 4-year terms a maximum of 2 additional commissioners to serve with the 5 commissioners currently permitted to serve.

Education and Public Works

Free Tuition at State-Supported Colleges, Universities and Technical Schools for Students Enrolled in South Carolina National Guard (H. 4947, Rep. Klauber). This bill provides free tuition for students enrolled in state-supported institutions of higher learning or technical colleges who are serving in the South Carolina National Guard (hereafter called "Guard"), contingent on the student being a South Carolina resident and also remaining a member in good standing in the Guard. Participation in this program is limited to first and second term enlisted members and requires a two-year service commitment for each year of enrollment. A student's obtainment of this exemption is contingent on his remaining a member in good standing of the Guard for the entire semester for which the exemption is claimed, and if the student terminates service in the Guard or if his work and conduct are no longer satisfactory to the student's institution, then the exemption is immediately forfeited and the student must pay the institution all tuition charges from which the student was exempt for that period. For purposes of this program, free tuition applies to registration for credit hours of instruction but does not exempt the student from any other fees, charges or costs of textbooks.

The exemption may be claimed for 8 years or until receipt of a bachelor's degree, whichever comes first. The exemption remains in effect for one full academic year and is renewed after the student completes a full academic year of work equal to 30 semester hours. Degree programs of these students, whether full or part-time, cannot exceed 130 semester credit hours or 195 quarter hours. These tuition-free benefits are based on the excess capacity of each state-supported educational institution or the availability of seats. Credit hours generated by Guard members participating in this free tuition program must be used in computing the higher education funding formula and has an impact on the level of funding an institution receives.

The bill requires this program to be administered by the Commission on Higher Education, which has the authority to issue a tuition exemption to Guard members. It would be the responsibility of the Adjutant General to submit a list of Guard members eligible for this benefit to the Commission on Higher Education.

Legislative Update, March 29, 1994

If adopted, these provisions are applicable to Guard members enrolling in state-supported higher education institutions beginning in the Fall of 1995.

Expansion of Authority of Aeronautics Division of the Department of Commerce (H. 4951, Rep. Cromer). This bill expands the authority of the Aeronautics Division (hereafter called "Division") of the Department of Commerce to include supervision and control over all fixed-wing aircraft owned, operated and maintained by the State, its departments and agencies. With this expanded authority, the Division may regulate state aircraft except fixed-wing aircraft used for state law enforcement and aircraft purchased, operated and maintained by public college or university athletic departments. Additionally, any fixed-wing aircraft used by the Medical University of South Carolina (MUSC) for official business must remain based in Charleston for that university's exclusive use.

The bill also requires the Division to conduct a study to examine the feasibility and potential cost savings of providing shuttle flights in state-owned aircraft to frequently-traveled destinations, with the Division reporting its findings to the General Assembly by January 1, 1995. The study is to be funded from appropriations to the Division. MUSC must transfer all related overhead, operating, maintenance and support funds to the Division. Finally, the bill requires the Division to reduce by one the number of state-owned aircraft upon acquiring jurisdiction of these aircraft under these provisions. Proceeds from the sale of the aircraft must be expended for the Division's maintenance programs and for the cost of the study examining the provision of shuttle flights in state-owned aircraft to frequently-traveled destinations.

Registration Requirements for Vehicles Owned by Out-of-State Residents and Operated in South Carolina (S. 849, Sen. G. Smith). This bill extends from 90 accumulated days to 150 accumulated days the length of time a passenger vehicle owned by a nonresident may be operated in South Carolina without being required to register in South Carolina.

Issuance of Manufacturer License Plates (S. 988, Sen. Reese). This bill allows the Department of Revenue and Taxation to issue a maximum of 200 manufacturer license plates to a motor vehicle manufacturer. (For the purpose of issuing these plates, a "motor vehicle manufacturer" is a person in the business of manufacturing or assembling new and unused vehicles in South Carolina.) These plates must be used exclusively on motor vehicles, including motorcycles, owned or in possession of a manufacturer but may not be used to operate wreckers in use by the manufacturer nor to operate vehicles which are leased or rented to the public by the manufacturer. The cost of a manufacturer plate is \$200, of which \$160 must be remitted by the Department to the county where the principal facility of the manufacturer is located.

The bill also permits vehicles with manufacturer plates, not exceeding one such license vehicle per household, to be operated by persons authorized by the manufacturer on vehicles of that manufacturer's brand on state streets

Legislative Update, March 29, 1994

and highways for testing, distribution, evaluation and promotion of vehicles. Additionally, vehicles with manufacturer plates may be used in connection with civic events and sporting events, but for no longer than 10 consecutive days. A manufacturer violating provisions governing use of these plates is subject to imposition of any administrative penalty permitted by law.

The bill provides a property tax exemption for motor vehicles held by a manufacturer which are operated on highways with manufacturer's plates and amends the definition of "manufacturer" for purposes of enforcement of motor vehicle warranties in South Carolina. Additionally, motor vehicles operated with manufacturer's license plates are exempt from the state's sales and use tax.

Finally, the bill permits use of a dealer license plate on a motor vehicle which the dealer lends to a school (whether public or private) for use in a driver education program. A plate used for this purpose may be obtained without fee and without regard to the limit on plates issued pursuant to current state law. However, when the vehicle no longer is used for driver education, the dealer must surrender the plate to the Department.

Judiciary

Mechanic's Lien May Be Filed For Environmental Work of Services Performed on or Rendered to Real Estate (H. 4956, Rep. Harvin). This bill allows a mechanic's lien to be filed for environmental work or services performed on or rendered to real estate, including any buildings or structures upon real estate, wells or land alone. For purposes of these provisions, "environmental work or services" includes but is not limited to the removal of harmful substances, waste or underground storage tanks and the replenishing of soil or bodies of water previously unfit for regular and customary use.

Persons Under Age 17 Forbidden From Loitering on Premises of Stores Which Sell Alcoholic Beverages (H. 4968, Rep. Jennings). This bill prohibits a child under age 17 from loitering on the premises, including the parking lot, of a store or business which sells beer, wine, alcoholic liquor or other alcoholic beverages.

Citizens-Council Partnership Act (H. 4976, Rep. Harrelson). This bill provides a procedure by which persons may repeal, modify or institute local services or taxes. Under these provisions, if 10 percent of the registered voters of a county, municipality, special purpose or public service district sign a petition calling for repeal, modification or institution of a service or tax, then that matter must be placed upon the agenda of the next meeting of the respective subdivision's governing body. If council concurs with the matter petitioned by giving it three readings, then the matter petitioned becomes law commencing at the beginning of the next fiscal year. If, however, the matter does not receive concurrence from the council, then the matter must be placed on the ballot at the next election. These provisions do not apply to services and tax for debt service in place on the effective date of

Legislative Update, March 29, 1994

these provisions unless the debt has been retired. No petition affecting the same service or tax may be received by council until one year has expired from the previous petition for the same matter. Additionally, Council on its own initiative and by a three-fifths vote may institute a new service or levy a tax rollback. If however, 10 percent of the registered voters petition Council, then the service or tax must be submitted to a referendum of the political subdivision's voters no later than the next general election. If the referendum wins approval, then the service, tax or both becomes law 90 days after that time or at the time specified by the referendum.

The bill also prohibits the General Assembly from imposing any unfunded mandates on counties, municipalities, special purpose or public service districts. Additionally, beginning in Fiscal Year 1996-1997, the State is required to only fund one public school district per county, and \$300,000 is appropriated from the General Fund of the State to the counties on a per capita basis to develop this new plan for funding school districts.

Popular Election of Public Service Commissioners (H. 4980, Rep. Rudnick). Under current law, the state's 7 public service commissioners are elected by the General Assembly, with one commissioner elected from each of the state's six congressional districts and one commissioner elected at-large. If this bill is adopted, however, the voters of each congressional district, beginning this November, would elect a commissioner, with the chairman of the commission elected by statewide popular vote. Commissioners would serve staggered 4-year terms, with commissioners from congressional districts 1, 3 and 5 elected to initial 2-year terms. Commissioners must be registered voters of the districts from which they are elected and would take office on January 1 following their election. Those commissioners currently serving in office would continue to serve until January 1, 1995, when the 7 commissioners elected this November assume office. The bill also eliminates the joint legislative committee which screens the qualifications of candidates seeking election to the public service commission.

Increased Penalties for Failing to Stop at Scene of Accident Resulting in Death or Injury (S. 894, Sen. Hayes). Under current law, it is a misdemeanor (punishable by imprisonment of 30 days-1 year and/or fine of \$100-\$5000) for a driver of a vehicle involved in an accident resulting in injury to or death of another person to fail to stop at the accident scene and also provide information and assistance at the scene. This bill would make this crime a felony in specific instances and accordingly impose tougher penalties on the driver as follows:

(1) Failure to Stop/Remain at Accident Scene Where a Person Is Injured (but does not die or suffer great bodily injury): Misdemeanor punishable by imprisonment of between 30 days and 1 year and/or a fine of between \$100 and \$5,000.

(2) Failure to Stop/Remain at Accident Scene Where a Person Suffers "Great Bodily Injury": Felony punishable by imprisonment of between 30 days and 10 years and a fine of between \$5,000 and \$10,000.

Legislative Update, March 29, 1994

(3) Failure to Stop/Remain at Accident Scene Where a Person Dies: Felony punishable by imprisonment of between 1 year and 25 years and a fine of between \$10,000 and \$25,000.

The bill defines "great bodily injury" as injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

Additionally, under current law, it is a misdemeanor for a driver involved in an accident resulting only in damage to a vehicle driven by another person to leave the scene of the accident and fail to provide assistance and information; however, no punishment is currently provided for this misdemeanor. This bill would impose punishment of imprisonment not exceeding 1 year and/or a fine of \$100-\$5,000 on a person convicted of this misdemeanor.

Clarification of Duties or Obligations of an Attorney for a Person Serving as a Fiduciary (S. 1136, Sen. Williams). This bill provides that the creation of an attorney-client relationship between a lawyer and a person serving as a fiduciary, unless expressly provided otherwise in a written employment agreement, does not impose upon the lawyer any duties or obligations to other persons interested in the estate, trust estate or other fiduciary property. These duties or obligations are not imposed even if fiduciary funds may be used to compensate the lawyer for legal services rendered to the fiduciary. These provisions are intended to be declaratory of the common law and govern relationships in existence between lawyers and persons serving as fiduciaries, as well as such relationships created hereafter.

Telephone Cooperative Act (S. 1189, Sen. Elliott). This is the companion bill to H. 4718, introduced in the House last month, providing for the incorporation, powers, operations and duties of telephone cooperatives. These cooperatives are corporations which either have been or currently are financed in part by the Department of Agriculture for the purposes of owning or operating equipment to transmit intelligence (e.g., telephone service, cable television) through a communication service system. The bill provides that telephone cooperatives operating under these provisions are subject to the jurisdiction of the Public Service Commission and to the State's tax laws for other cooperatives.

Five or more natural persons or two or more telephone cooperatives may organize a telephone cooperative upon filing articles of incorporation with the Secretary of State. These telephone cooperatives have the same general powers as are granted to private corporations under state law and also have a number of other powers, including, among others, the construction, maintenance and operation of lines along and across public thoroughfares; borrowing money and otherwise contracting indebtedness; and the power of eminent domain. The original bylaws of a telephone cooperative must be adopted by its board of directors, but thereafter must be adopted, amended or repealed in accordance with provisions of the bylaws. The bill also lists a procedure whereby a cooperative may sell its assets.

Legislative Update, March 29, 1994

A person who is not an incorporator may not become a member of the telephone cooperative unless that person agrees to use telephone service furnished by the cooperative when such telephone service is available through its facilities. The bylaws of the cooperative may provide for a number of matters, including, among others, the manner of calling and conducting its meetings, the rights of members to vote by proxy, and the manner by which members may withdraw or transfer shares. The bylaws must provide for the distribution of excess revenue to its members. Each cooperative member is entitled to vote on each matter submitted to a vote at a meeting, and unless prohibited by the bylaws or other provisions, voting may be by proxy. No member of a cooperative is liable or responsible for any debts of the telephone cooperative.

Business affairs of a telephone cooperative must be managed by a board of at least 3 directors, each of whom must be a member of the telephone cooperative, or of another cooperative which is a member of the telephone cooperative. The bylaws must prescribe the number of directors, their qualifications, the manner of holding board meetings, and the filling of board vacancies. The bill lists the procedure by which, under the bylaws, directors may be removed from office and successors elected and provides that directors are immune from suits arising from the conduct of affairs of the telephone cooperative except if the conduct amounts to wilful, wanton or gross negligence. This immunity granted to directors, however, must not be construed as granting immunity to the telephone cooperative. The bill also lists general standards by which directors must charge their duties. The bylaws may provide that the service area of the telephone cooperative must be divided into two or more districts and that one or more of the members be elected from the district to serve as director. A majority of the board of directors constitutes a quorum, unless otherwise specified in the bylaws.

The bill lists requirements by which a telephone cooperative must abide in amending its articles of incorporation and also lists requirements for the consolidation and merger of telephone cooperatives, along with the merger of a telephone cooperative into a cooperative which is not another telephone cooperative. Additionally, a telephone cooperative, whether or not it has commenced business, may dissolve voluntarily as permitted under these provisions. Any corporation organized under State law for the purpose of providing communications and informational services in rural areas may be converted into a telephone cooperative and become subject to these provisions.

Labor, Commerce and Industry

Cancellation and Return of Insurance Premiums (H. 4953, Rep. R. Smith). Under current law, when a notice of cancellation of an auto insurance policy for nonpayment of premium is mailed to a person, the notice must inform the person that it (the notice) is void and ineffective if the person pays the full amount of the premium or the premium indebtedness by the otherwise effective date of cancellation. This bill provides, however, that in

Legislative Update, March 29, 1994

circumstances of nonpayment where the insurer or agent has notified the person by first class, certified mail of its inability to collect the premium utilizing the financial statement provided by the person, then the notice of cancellation notifies the person because of that reason that his policy and coverage are canceled at the date and time the premium was due. The bill also provides, in cases of cancellation of an insurance contract by a premium insurance company, for the refund of excess premiums to the insured or the agent, agency or broker placing the insurance for the account of the insured. Additionally, the bill allows advancement of all or part of an insurance policy premium to a premium service company and provides that the agent or agency has a lien equal to the amount of unpaid balance and service charges upon any surplus over the amount due from an insured held by a premium service company. Finally, the bill provides for payment of excess of return premiums by a premium service company to the insured.

Unlawful for Person to Misrepresent Income for Purposes of Obtaining or Retaining Public Housing (H. 4954, Rep. Klauber). This bill makes it a misdemeanor for a person to knowingly make a false statement about his individual or family income for purposes of obtaining or retaining public housing or for the purpose of determining the public housing rent the person owes. Violation of these provisions is punishable by imprisonment of not more than 2 years or a fine of not more than \$1,000.

Reinsurance Facility (H. 4972, Rep. Felder). This bill revises operations of the State's Reinsurance Facility and requirements for writing physical damage coverage for private automobiles, as follows:

---Requires the insurance commissioner, after consultation with the governing board of the Reinsurance Facility, to direct the governing board of the Facility to contract with one or more insurers meeting eligibility requirements promulgated by the governing board to act as servicing carriers for the writing of auto insurance through producers assigned to the servicing carrier by the governing board. The servicing carrier must cede the risk on every policy of auto insurance produced by its assigned servicing agents for the Reinsurance Facility.

---Allows, after June 1, 1994, producers previously designated by the insurance commissioner of the governing board to continue to serve in the capacity of a servicing agent for the Facility and provides that these producers are not required to requalify or reapply for assignment.

---Allows producers to apply to the governing board for assignment to a servicing carrier and to be eligible for assignment. Currently a producer is designated by the Facility's governing board upon application for designation. Deletes several provisions pertaining to designation of producers by the Facility's governing board. Provides that a applicant for assignment by the Facility's governing board must have been a licensed resident property and casualty insurance agent for 5, as currently opposed to 10, continuous years and must at the time of application be an agency owner or principal associated with an agency in South Carolina which has been

Legislative Update, March 29, 1994

actively in business for 5 years. Also provides that a producer assigned to a servicing carrier may not operate or maintain more than one location at which the solicitation or transaction of any auto insurance business is conducted and may not change the location without written authorization of the governing board. Additionally, assignment of a producer to a servicing carrier by the governing board is transferable to a spouse, child, parent, brother or sister of the producer upon the producer's retirement, incapacity or death.

---Provides that the governing board of the Facility must not contract with an insurer to act as a servicing carrier solely for the insurer's own authorized and voluntary contracted agents. Also, upon change of assignment of a producer to another servicing carrier, the producer's former servicing carrier is not subject to current laws pertaining to restrictions on nonrenewal of policies and notice of cancellation or refusal to renew policies, but only for existing policies of that producer which expire at the policy renewal dates beginning 120 days from receipt of notice of the change of assignment by the former carrier from the Facility's governing board. Lists information the former servicing carrier must place on its notices to these policyholders.

---Provides that member companies of an affiliated group of auto insurers may (as currently opposed to may not) utilize different filed rates for auto insurance coverages which they are mandated by law to write. Also provides that premiums attributable to risks ceded to the Facility at a company filed rate which is greater than the facility rate must not be included when determining total direct cedeable written premiums for purposes of unreasonable or excessive use of the Facility by an insurer. Sets a three-year period for phasing in establishment of a facility rate for all business ceded to the Facility.

---Provides that an insurer is not required to write private passenger physical damage coverage for the following vehicles:

(1) classic cars (i.e., a car whose monetary value exceeds the original purchase price which has appreciated in value by maintaining the original parts;

(2) antique cars (i.e., cars over 25 years of age);

(3) any auto with any modification to the chassis or wheel base;

(4) any auto with a wheel base of 99.5 (ninety-nine and one-half) inches or less, including utility vehicles;

(5) any auto within the "Sports Group" or "Sports Premium Group." (For these purposes, a "Sports Group" means a two-passenger body type auto with a net weight to horsepower ratio between 20:1 and 30:1. "Sports Premium Group" means a two-passenger body type vehicle with a net weight to horsepower ratio between 20:1 or less.)

Insurers subject to these provisions who write single interest collision coverage must provide an applicant for the insurance a notice which states that the insurance coverage being purchased is only single interest collision coverage and that the amount of this insurance decreases as the amount of indebtedness is paid off. The notice also must state that under

Legislative Update, March 29, 1994

this coverage no insurance proceeds over and above the amount of the outstanding balance of the loan may be received.

---Provides that a policy of auto insurance offered or issued by a new servicing carrier for the Reinsurance Facility to replace a policy previously issued by a former servicing carrier and containing the same coverage limits as the former policy constitutes a valid replacement policy which does not require the new servicing carrier or agent to make a new offer of coverage or to obtain a new application from the insured.

Payment of Sales Tax Required if Leased Auto Is Purchased at End of Lease (H. 4973, Rep. Cato). Under these provisions, a person entering a consumer lease for an auto and paying the sales tax required of that lease must be informed by the lessor that if the auto is purchased at the end of the term of the lease, then the consumer must pay the sales tax again.

Payments for Revolving Credit Accounts on Consumer Credit Sales (H. 4975, Rep. Rogers). Under current law, at least 40 percent of any scheduled minimum payment for a billing cycle for a revolving charge account on consumer credit sales must be applied to reduction of principal. This bill provides, however, that failure to meet this percentage requirement for payment of principal is not considered a violation of this requirement if caused by the buyer's late, insufficient or nonpayment of one or more scheduled minimum payments, or is caused by the buyer's agreement to a promotion offered by the seller such as deferred payments, deferred or waived finance charges, or a combination of these.

Group Health Insurance Policies Must Include Offer of Coverage for Psychiatric Conditions (S. 25, Sen. Bryan). This bill requires a group health insurance policy offered for sale in South Carolina to also include an offer of optional coverage for psychiatric conditions. For purposes of this optional coverage, "psychiatric conditions" means mental and nervous conditions, drug and substance addiction or abuse, alcoholism or other conditions defined, described or classified as psychiatrist disorders or conditions in the American Psychiatric Association's most current publication of "The Diagnostic and Statistical Manual of Mental Disorders."

This offer of coverage may contain provisions which prescribe different benefits for psychiatric conditions and physical conditions with respect to any deductible amount, coinsurance provision or contract term affecting benefit determinations based on use or nonuse of preferred providers. An offer of such optional coverage must provide minimum benefits for psychiatric conditions of at least \$2,000 for each member for each benefit year, with a lifetime maximum benefit of \$10,000. However, an insurer may issue or continue to issue a health insurance policy which provides greater benefits than these minimum requirements or which generally are more favorable to the insured than these minimum requirements.

South Carolina Gasoline, Lubricating Oils and Other Petroleum Products Act (S. 797, Sen. Leventis). Title 39, Chapter 41 of the State Code of Laws lists safety and other standards for the sale of petroleum products in South

Legislative Update, March 29, 1994

Carolina. This bill specifically labels that chapter the "South Carolina Gasoline, Lubricating Oils and Other Petroleum Products Act" and provides that the purpose of the act is to promote and protect the public health, safety and welfare by ensuring that petroleum products (1) are labeled and posted in a manner consistent with the principal of truth-in-labeling and (2) meet or exceed minimum quality standards set out in the American Society of Testing and Materials Manual.

The bill adds provisions to this act and also revises certain provisions of this act, as follows:

---Adds a provision which prohibits a motor fuel retail dealer from transferring, selling, dispensing or offering petroleum products for sale in South Carolina unless every dispenser is posted clearly with the complete registered brand name for the petroleum products being dispensed, including any amount of alcohol, ethanol and methanol present and the octane number. Also lists labeling requirements for the dispenser.

---Provides that a person or his agent or employee who conveys or offers to convey motor fuel in violation of this act is subject to an administrative fine, a stop-sale order, or both in the discretion of the Commissioner of Agriculture. The administrative fine for a violation of the act is not to exceed \$1,000, except a fine of no more than \$10,000 may be imposed if the violation threatens public health or safety; is committed knowingly or intentionally, or reflects a continuing and repetitive pattern of disregard for the requirements of the act pertaining to sales, records, etc. of petroleum products.

---Amends the definition of "petroleum" to include oxygenated compound blends of petroleum products (e.g., gasoline, kerosene, etc.).

---Grants to the Commissioner of Agriculture or his designated representative the authority to immediately stop the sale of and prevent further sales of a dispensing pump or other dispensing product from which petroleum products are offered or exposed for sale in violation of provisions in the act governing the sale of petroleum products. Petroleum products placed under a stop-sale order cannot be offered or exposed for sale until the commissioner or his designated representative is satisfied that these products have been blended, re-refined or properly labeled to meet the requirements of the act and the owners have been notified of this fact by the commissioner or his designated representative. Blending, re-refining or proper labeling of these products permitted under a stop-sale order does not affect an indictment which may be brought for violation of this provision.

---Allows the Department of Agriculture to impose an administrative fine not exceeding \$100 on manufacturers, wholesalers and others who fail to provide the Department with timely information pertaining to petroleum products sold, received and distributed in South Carolina.

Legislative Update, March 29, 1994

---Increases the penalties for violating provisions of the act pertaining to petroleum products in general (sale, records, etc.). Currently the penalty for a violation of the act's provisions pertaining to these products is a fine of between \$10-\$300 for each offense. This bill revises the penalty for this offense by increasing the fine to between \$100-\$1,000 and allows imprisonment of 30-60 days to be imposed in lieu of a fine.

---Increases the penalties for violating provisions of the act pertaining to petroleum products in general for which no other penalties are specifically provided or for hindering/obstructing the Commissioner of Agriculture in enforcing these provisions. Currently a person convicted of this misdemeanor is fined between \$25 and \$100 or imprisoned between 30 and 60 days. This bill increases the fine which may be imposed on a person convicted of this misdemeanor to \$100-\$1,000.

Return to Tenant of Money and Property Held by Landlord (S. 913, Sen. Lander). This bill provides that upon termination of tenancy, property or money held by the landlord as security, after amounts have been withheld by the landlord for accrued rent and for damages the landlord has suffered because of the tenant's failure to maintain his dwelling unit, must be returned to the tenant. The bill also clarifies the rights of a tenant when a landlord wrongfully withholds a security deposit, so as to provide that if the landlord does not return to the tenant any prepaid rent or security deposit with the notice the landlord must send to the tenant, then the tenant may recover damages (i.e., property and money in an amount equal to three times the amount wrongfully withheld) and attorney's fees.

Elimination of Office of Chief Athletic Commissioner of the State Athletic Commission (S. 1026, Sen. McGill). This bill eliminates the office of chief athletic commissioner of the State Athletic Commission and replaces that commissioner with an administrator appointed by the Director of the Department of Labor, Licensing and Regulation. The bill also allows a designee of the Director of that Department to appoint a chief inspector and referees, inspectors, other officials and clerical help as needed to administer the Commission and allows a Commission representative in charge of an event (i.e., boxing and wrestling events) to discipline a licensee of the Commission who violates provisions governing those events. Finally, the bill prohibits members of county athletic commissions from receiving state compensation but allows these members to receive other compensation (in addition to per diem, mileage and subsistence) authorized by the county or authorized by the State Athletic Commission if paid by a promoter while the commission member has been appointed a state commission representative for an event.

Alternative Regulation of Interexchange Telecommunication Carriers (S. 1220, Sen. Stilwell). This bill allows the Public Service Commission, on the request of an interexchange telecommunication carrier [hereafter called "carrier"] (i.e., toll services provided by a telephone utility) or on the Commission's own motion, to consider, in lieu of current provisions for regulating carriers (as outlined in Title 58, Chapter 9, Code of Laws) an

Legislative Update, March 29, 1994

alternative means of regulating the carrier. If after notice and hearing the Commission determines that the substantial record of evidence shows that a particular service is competitive in a relevant geographic market, then the Commission may implement regulatory alternatives such as those outlined in this bill.

If the Commission determines that a carrier service is competitive, then the Commission would not fix or prescribe the rates, tolls, charges or rate structures for that service. The bill lists factors the Commission must consider in determining whether a service is competitive and requires the carriers to file and maintain price lists for competitive telecommunications services. The Commission may reclassify a telecommunications service provided by a carrier as noncompetitive if after notice and hearing the substantial evidence of record shows that sufficient competition does not exist for the service. In regulating a carrier service found to be noncompetitive, the Commission may implement other regulatory alternatives such as price caps.

These provisions do not limit the Commission's authority, as pertains to reporting requirements of carriers, to set standards for, among other things, quality of service, complaints, and installation of interexchange service.

Medical, Military, Public and Municipal Affairs

Conditions Under Which Children Age 8 or Older May Swim in Certain Community Swimming Pools Without Adult Supervision (H. 4948, Rep. M.O. Alexander). This bill allows, without adult supervision, a child who has reached age 8 to swim and be allowed in a community swimming pool classified as a "Class B" pool under regulations of the Department of Health and Environmental Control, so long as the child has passed a swimming test established by the pool's governing authority. (Under DHEC regulations, a "Class B" pool is a swimming pool not open to the general public, such as pools at motels or country clubs or pools operated by a homeowners' association.)

Background Checks on Applicants for Licensure as Foster Parents and Employees of Residential Group Homes and Child-Caring Institutions (H. 4949, Rep. Cobb-Hunter). This bill requires the State Department of Social Services (hereafter called DSS) to conduct a Central Registry of Child Abuse and Neglect check and criminal background check on applicants seeking licensure as foster parents and upon all adults living in the home when the home undergoes licensing and renewal and when notified a new adult has begun residing in the home. DSS also must conduct these checks on all employees of and volunteers in residential group homes and child-caring institutions at the time the employee is hired or the volunteer is accepted, as well as annually thereafter upon the renewal date of the facility's license. DSS may release information obtained from these records to the facility or to a child-placing agency sponsoring a foster family. The bill prohibits anyone convicted of a crime involving child abuse or neglect, any form of sexual

Legislative Update, March 29, 1994

assault, lewd act on a minor, or any violent offense on a minor from being licensed as a foster parent, residing in a licensed foster home, or being employer or acting as a volunteer for a residential group home or child-caring institution. DSS also is to review convictions of other crimes to determine whether the individual would be a suitable caregiver for foster children or other children in residential care or could contribute to a suitable environment for the care of foster children or other children in residential care. The bill allows DSS to obtain further information from the county DSS office, the individual and others in seeking to determine his suitability and lists factors DSS must consider in assessing whether the individual with convictions for other crimes is suitable for caregiving.

No one appearing on the Central Registry of Child Abuse and Neglect as a perpetrator in a case determined after January 1, 1993 may be licensed as a foster parent, reside in a licensed foster care home, or be employed by or serve as a volunteer for a residential group home or child-care institution. If, however, a person appears as a perpetrator on this registry in a case determined before January 1, 1993, then DSS is to conduct a review to determine whether the individual would be a suitable caregiver for foster children or other children in residential care or could contribute to a suitable environment for the care of foster children or other children in residential care. DSS may request further information from a county DSS office, the individual, or others to assist the agency in assessing the individual's suitability for these activities and lists factors DSS is to consider in assessing the individual's suitability.

If DSS requests additional information on an individual appearing on the registry in a case determined before 1993 or on an individual convicted of other crimes aside from those listed in this bill (child abuse, sexual assault, etc.), then the time for issuance or renewal of a license is stayed until all requested information is received. Failure to submit the requested information within the time specified by DSS could result in denial or revocation of the license.

Ways and Means

Elimination of Agricultural Rollback Tax (H. 4950, Rep. G. Bailey). This bill eliminates roll back property taxes, which currently are imposed when real property (i.e., land) in agricultural use is converted to a non-agricultural use, and instead imposes a change of use penalty of \$50 when farm property is converted to another use. The penalty is to be added to the tax due on the property. If adopted, these provisions would be effective on the first day of the second month following approval by the governor and apply to changes of use occurring on or after that date.

South Carolina Coastal Futures Planning Act (H. 4966, Rep. Barber). This joint resolution establishes a task force for the purpose of studying and making recommendations to the General Assembly for a long-range plan for South Carolina's coastal area which addresses the needs of preserving and

Legislative Update, March 29, 1994

enhancing the area's economic viability while also preserving and protecting its environment. In developing the plan, the task force must establish goals and policies which include, among others, beachfront preservation and renourishment, transportation infrastructure, preservation and protection of the environment and natural resources, and land use planning. The task force also must develop implementation mechanisms, including identification of financial resources and revenue for state and local government action and private sector initiatives to assist in carrying out the long-range plan.

Membership of this task force is as follows:

(a) 7 ex-officio members, representing state agencies. This includes the directors of 5 state departments (Commerce, Health and Environmental Control, Natural Resources, Parks, Recreation and Tourism, and Transportation), the director of the Sea Grant Consortium, and the deputy commissioner for Ocean and Coastal Resources Management of the Department of Health and Environmental Control;

(b) 1 representative from each of the 6 counties (Beaufort, Charleston, Colleton, Georgetown, Horry and Jasper Counties) located along South Carolina's coast. The representative of each county would be selected by the resident legislators of that particular county, meaning, for example, that the resident legislators of Beaufort County would select their county's representative for this task force.

(c) 22 members would be appointed jointly by the Lieutenant Governor and the Speaker. 2 of these members--1 member of the House and 1 member of the Senate--would serve ex-officio. 1 at-large member would serve as chairman of the task force, and 1 at-large member would serve as vice chairman. The remaining 18 members appointed jointly by the Lieutenant Governor and the Speaker would represent various economic and environmental interests. As examples, these appointments would include a representative each from hotel/motel interests, the travel industry, developers' interests and sea fishing interests, and 2 representatives each from the Sierra Club and Coastal Conservation League.

The joint resolution directs the task force chairman to appoint committees to assist in carrying out the task force's work and also directs officers and agencies of the State or its political subdivisions, when requested by the task force, to provide to the task force information and assistance for purposes of developing a long-range plan.

Task force members are to be appointed no later than June 15 of this year, and the task force must submit recommendations to the General Assembly before February 1 of each year from 1995 through 1999. The task force's final recommendations must be submitted to the General Assembly prior to February 1, 2000, at which time the task force must be dissolved.

Department of Education May Transfer Funds to Cover Operating Expenses of School Bus Shops (H. 4971, Rep. Hallman). This joint resolution allows the State Department of Education to transfer up to \$500,000 of Fiscal Year 1993-1994 general appropriations for the Education Finance Act to cover operating expenses of school bus stops.

Legislative Update, March 29, 1994

South Carolina Infrastructure Facilities Authority (H. 4977, Rep. McAbee). This bill establishes the South Carolina Infrastructure Facilities Authority, the purpose of which is to provide financial assistance to local government in constructing, extending and repairing environmental infrastructure facilities (water, sewer and solid waste) to provide for the health and welfare of its citizens and promote economic development.

The members of the Budget and Control Board comprise the South Carolina Infrastructure Facilities Authority. In carrying out these provisions, the Authority has several powers, including, among others, acquisition (by eminent domain, purchase, etc.) of property; making and servicing loans; hiring and employing staff, consultants and others; issuing revenue bonds; borrowing money; and entering into agreements with a department, agency or instrumentality of the United States or South Carolina for the purpose of planning and providing for financing of these projects. The bill also establishes a South Carolina Infrastructure Revolving Loan Fund, to help local governments develop these infrastructure projects. Deposits to the fund may include, among other sources, funds appropriated by the General Assembly for the fund; federal assistance, and payments received from a local government in repayment of a loan. Amounts in the fund are to be used for making loans or grants to local governments, to buy or refinance debt obligations of local governments at or below market rates, and for costs of administering the fund, among other purposes. The authority may make loans to a local government to pay all or part of the cost of a project and may require the local government to issue bonds or revenue bonds as evidence of its loan obligation. The bill lists activities a local government may have to perform (e.g., establishment of fees to pay outstanding indebtedness on a project) as a condition of obtaining a loan from the authority.

The authority may receive funds from federal, state or other sources to make grants to local government to fund these infrastructure projects, and all local governments are authorized to borrow money from the authority through loan agreements and the issuance of loan obligations in favor of the authority. The authority also may issue bonds to provide the amounts necessary to carry out these provisions. Additionally, the authority may pledge any of its revenues or funds to the payment of bonds. Bonds issued by the authority are payable solely from the revenue, money or property of the authority and are not a debt or pledge of the faith and credit of South Carolina or its political subdivisions other than the authority. No members of the authority or a person executing bonds of the authority is personally liable on the bonds by reason of their issuance or execution. Bonds of the authority must be authorized by a resolution of the authority and must be in the form and executed in the manner provided in the bond resolution. No bond issued by the authority may mature more than 30 years from its date of issue. Bonds may be secured by a trust indenture between the authority and a corporate trustee, which may be the State Treasurer or a bank having trust powers or a trust company designated by the State Treasurer. Pledges made by the authority are valid and binding from the time the pledge is made.

Legislative Update, March 29, 1994

The authority is exempt from paying taxes or assessments upon property, upon its operations or the income from them, or taxes or assessments upon property or loan obligation acquired or used by the authority or upon the income from them. Members of the authority and officers and employees of the authority acting on the authority's behalf are immune from liability resulting from the construction, ownership, maintenance or operation of any project financed with the authority's assistance; construction, maintenance, etc. of any solid waste, sewerage or water system owned by a local government, or from carrying out the provisions of this act. Bonds issued by the authority, the transfer of bonds and income from them are free from state and local taxation and assessment. Bonds, notes or other obligations offered, sold or issued by the authority are not subject to regulation under the State's Uniform Securities Act. If a local government fails to collect and remit in full amounts due to the authority on the date such amounts are due under any bond or other obligation of a local government, then the State Treasurer must withhold the portion of State funds and funds administered by the State appropriated to the local government in an amount sufficient to pay the amount due.

The bill places responsibility with the Division of Local Government of the Budget and Control Board for providing staff and otherwise assisting the authority in administering the Infrastructure Revolving Loan Fund. In providing this assistance, the Division of Local Government must, among other things, provide local governments information as to the authority's programs and procedures for obtaining assistance, administer the fund and administer the authority's programs and loans.

The bill revises the bonding authority of the South Carolina Resources Authority, so as to allow the authority to issue bonds only for the purpose of refunding bonds of the authority issued before December 31, 1992 or for the purpose of refunding these refunding bonds, and also reduces from \$200 million to \$60 million the total principal amount of bonds the authority is authorized to issue.

Special Source Revenue Bonds (H. 4978, Rep. Simrill). This bill requires a county, municipality or special purpose district which receives and retains revenues from a payment in lieu of taxes, in which these revenues are derived in whole or in part from a redevelopment project area established under the State's Tax Increment Financing Law, to allocate these revenues in accordance with the ordinance the municipality adopted pursuant to that law, as if the revenues remained ad valorem taxes. Additionally, all taxes collected in the redevelopment project area which are not subject to this municipal ordinance become payments in lieu of taxes, and the portion collected by the municipality may be pledged to secure special source revenue bonds issued by the municipality.

Creation of Community Recreation Special Tax Districts (S. 73, Sen. Rose). This bill provides for the creation of community recreation special tax districts for the purpose of providing recreational services and programs

Legislative Update, March 29, 1994

within counties which do not currently have a special purpose or special tax district existing for those purposes.

A referendum to establish a community recreation special tax district (hereafter called "district") is to be held if either county council adopts a resolution calling for a referendum for that purpose or if 15 percent of the registered voters in a proposed district of less than 50,000 people (10 percent if the district has population 50,000 or more) sign and present a petition to county council requesting establishment of such a district. A county council resolution or a petition to initiate a referendum must contain a description of the geographic boundaries of the proposed district and the maximum level of taxes, user service charges, or both, authorized to be levied and collected. A petition also must contain a registered voter's name and address. A referendum to establish this special tax district may only be held on the date of the state general election (November of every even-numbered year). If both proposals of a referendum---namely, to establish a district and the maximum level of taxes/user fees authorized to be levied or collected---are approved by the voters of the proposed district, then the council must pass an ordinance establishing this special tax district.

If all or part of an incorporated municipality is to be included within the area of a proposed district, then prior to holding a referendum on creation of this district, the following requirements must be met:

- (1) The municipality's governing body must concur with the inclusion of that part of the municipality within the area of the proposed district; and
- (2) The County Council and that municipality's governing body must enter into an intergovernmental agreement stating the terms and conditions governing the use of property or other assets owned or in the possession of the municipality which may be used in the proposed tax district. (This agreement, however, may be amended after the district is created by agreement of the county council and that municipality's governing body.)

County Council, by ordinance, must provide for the operations of this tax district, to include creation of a 3-7 member commission appointed by Council and setting terms of these members. Commission members must reside in the tax district and cannot receive compensation for serving on the commission.

The bill requires County Council, prior to issuing general obligation or revenue bonds and levying a tax or service charge to retire the bonds at rates different from those levied in the remainder of the county, to first approve issuance of the general obligation or revenue bonds and the levy of the tax or service charge to retire these bonds. A tax or service charge levied for general obligation or revenue bonds is subject to the limitation imposed by referendum on the maximum level of taxes or user service fees authorized to be levied and collected for the district.

The bill also allows the county council, by ordinance, to increase the boundaries of this district and permits reduction of the district's boundaries or the actual abolishment of the entire district in the same

Legislative Update, March 29, 1994

manner as these districts are created (through referendum). Additionally, county council may abolish this district by ordinance and with the consent of each municipality's governing body if it (county council) determines to provide for a countywide recreation program to be financed by a countywide tax and/or user service charge.

Department of Natural Resources May Not Renew a Motorboat Number Certificate Unless Property Taxes on Watercraft Are Paid (S. 933, Sen. Lander). This bill prohibits the Department of Natural Resources from renewing a watercraft's registration number or recording the transfer of a certificate of title to a watercraft or outboard motor unless a county treasurer or municipal clerk has notified the Department that all property taxes owed on the watercraft or outboard motor have been paid.

Sales Tax Exemption for Medicine Donated by Manufacturers to Public Institutions of Higher Learning for Certain Purposes (S. 1079, Sen. Wilson). This bill provides a sales tax exemption for (1) medicine donated by its manufacturer to a public institution of higher learning for research or for treatment of indigent patients, and (2) free samples of prescription medicine distributed by its manufacturer and any use of these free samples.

Employees of Certain Community Action Agencies Eligible for Coverage Under State Health and Dental Insurance Plans (S. 1149, Sen. G. Smith). Under these provisions, eligibility for coverage under the state's health and dental insurance plans is extended to include retirees and their eligible dependents of community action agencies that receive funding from the Community Services Block Grant Program administered by the Governor's Office, Division of Economic Opportunity.

Installment Purchase Program to be Administered by State Treasurer (S. 1183, Sen. Drummond). Current law allows the Division of General Services of the Budget and Control Board to operate an "Installment Purchase Program," under which the Division purchases office equipment, telecommunications equipment, medical equipment and data processing equipment for the purpose of renting, leasing or resale to state government agencies, boards, commissions and institutions. This bill moves administration of this program to the State Treasurer's Office, authorizes the Treasurer to make installment loans to these state government entities (agencies, etc.), and requires that equipment rented, leased or resold to these entities under this program must be in accordance with procurement statutes and regulations. The bill also expands the type of equipment which may be leased or purchased under this program to include energy conservation equipment and requires that when loans are made to these agencies, etc. under this program, the interest rate must be between 7 and 15 percent. Additionally, the bill lowers from 8 to 6.5 percent the interest rate on funds the Treasurer may borrow from the Insurance Reserve Fund to carry out this installment purchase program.

Uniform Unclaimed Property Act (S. 1245, Senate Finance Committee). Current law requires a person holding property presumed abandoned and subject to unclaimed property under the Uniform Unclaimed Property Act to file a

Legislative Update, March 29, 1994

report with the administrator (i.e., Department of Revenue and Taxation) concerning the property. This bill increases from \$25 to \$50 the threshold value above which abandoned property must be reported and deletes the separate reporting and notice date for life insurance companies. The bill also allows the administrator, prior to making any deposit of funds received under this Act to the general fund, to deduct reasonable fees paid to a person contracting with the administrator to provide information leading to the delivery of unclaimed property from a nonresident holder. No fee may be paid, however, before receipt of the unclaimed property report and delivery of the abandoned property to the administrator. The amount of any penalty or interest imposed is excluded from the base amount to which the fee applies.

A person failing to pay or deliver property within the time prescribed by this act must, as currently opposed to may, be required to pay interest to the administrator. The bill also deletes the separate penalties currently imposed under the Act for failing to render a report or delivering property within a timely manner and instead provides that persons failing to meet these requirements are subject to penalties under provisions governing the uniform method of collection and enforcement of taxes levied and assessed by the Department of Revenue and Taxation (Article 1, Title 12, Chapter 54, Code of Laws). For purposes of tax collection and enforcement under that article, a report required pursuant to this Act is deemed a return.

Without Reference

Transfer of Monies from Patriots Point Development Authority to a Local Public Entity for the Purpose of Benefiting Charleston's Spoleto Arts Festival (H. 4955, Rep. Holt). This joint resolution authorizes the Budget and Control Board to transfer an amount not exceeding \$600,000 from monies set aside for the Patriot's Point Development Authority to a local public entity approved by the Board, with money from this loan to be used by the local public entity exclusively for the benefit of the Spoleto Festival. These monies must be loaned for no longer than 3 years, with the interest rate determined by the State Treasurer.

Appropriations from Prudential Bache Litigation (H. 4974, Rep. Boan). This joint resolution makes appropriations from funds collected by the Secretary of State's Office from the settlement of the Prudential Bache litigation. The joint resolution provides that of \$647,715 collected by the Secretary of State's Office during fiscal year 1993-1994 from this settlement, the Secretary of State's Office may retain not more than \$324,201 to retire installment purchase debt incurred for office automation, while \$197,545 from this sum is appropriated for the Administrative Law Judge Division for the current fiscal year. The remaining balance from this sum is appropriated to the Budget and Control Board's Division of General Services for the upcoming State House renovations project. The joint resolution also allows any unexpended amounts from this fund appropriated for the Administrative Law Judge Division may be carried forward to fiscal year 1994-1995.